

REMARKS

Claims 1-13 and 15-28 are pending in this application after this amendment. Claims 1, 3, 5-7, 16 and 20-25 are independent. New claims 26-28 are added for consideration by the Examiner. No new matter has been added by the addition of these new claims. Based on the amendments and remarks made herein, Applicant respectfully requests reconsideration and withdrawal of the outstanding rejections.

By this amendment, Applicant has amended the claims to more appropriately recite the claimed invention. It is respectfully submitted that these amendments are being made without conceding the propriety of the Examiner's rejection, but merely to timely advance prosecution of the present application.

Applicant wishes to thank the Examiner for withdrawing the Restriction Requirement.

In the outstanding Official Action, the Examiner rejected claims 1-13 and 20 under 35 U.S.C. §102(e) as being anticipated by Maissel (USP 6,637,029); rejected claims 15, 16, and 21-25 under 35 U.S.C. §103(a) as being unpatentable over Maissel in view of Blahut (USP 5,446,490); and rejected claims 17-19 under 35 U.S.C. §103(a) as being unpatentable over Maissel in view of Blahut and further in view of Itakura (USP 6,157,946). Applicant respectfully traverses these rejections.

Preliminary Comments

In the outstanding Official Action, the Examiner rejected claims 1-13 and 20 based on the purported teachings of Maissel. However, it appears that the Examiner has failed to properly consider all of the elements recited in these claims. For example, claim 7 recites a new arrival information obtaining unit. Further, claim 9 recites "said preference score vote receiving unit receives a vote of degree of preference including a negative vote representing low preference". Claim 11 recites "said preference score vote receiving unit simultaneously receives a vote of degree of preference for data other than data for which a vote has been received, including same attribute as said data for which a vote has been received." However, it appears that the Examiner

has failed to address any of these claim elements. Applicant respectfully requests the Examiner properly consider all of the elements recited in the claims in a new, non-final Official Action so that Applicants may have a proper opportunity to respond.

Claim Rejections – 35 U.S.C. §102

In support of the Examiner's rejection of claim 1, the Examiner asserts that Maissel discloses a data output apparatus, comprising a switch destination data determining unit determining a switch destination of data being output by said output unit, based on a result of counting by said preference score counting unit, wherein said switch destination data determining unit determines probability of data to be said switch destination such that data of high preference score has high probability, based on the result of counting of the preference score by said preference score counting unit. The Examiner relies on col. 13, lines 35-47 to support his assertion. Applicant respectfully disagrees with the Examiner's characterization of this reference.

The disclosure of Maissel is directed to an intelligent electronic program guide. The system in Maissel includes a profile storage unit for storing a viewer preference profile and in intelligent agent for customizing the program schedule information based, at least in part, on the viewer preference profile to produce a program guide including customized program schedule information (Abstract).

Maissel further discloses in col. 12, lines 16-61 as follows:

The intelligent agent 130 is preferably operable to combine the television viewing information with the program schedule information and to extract therefrom characteristics, typically comprising components similar to those described above with respect to program schedule information, which characterize the television program currently being viewed by the viewer. Such components are also known herein as current program characteristics. The intelligent agent 130 is typically operative to store the current program characteristics in a viewer preference profile, typically in the profile storage unit 140, the viewer preference profile typically comprising information, obtained over a period of time, on the various current program characteristics of programs viewed by a viewer at various times. The period of time may be as short as a few minutes or as

long as a year or more. The viewer preference profile also typically comprises information on the amount of time or proportion of duration of the program during which each program was viewed by the viewer.

Typically, the viewer preference profile may contain information on preference strength, that is, on how strongly a certain program or type of program is preferred by the viewer. Preference strength may reflect the number of times that the program was viewed in a given period of time, the percentage of all occurrences of the program that were viewed, or any other appropriate criterion. Typically, the viewer preference profile is accumulated over an unlimited amount of time. Alternatively, old information may be eliminated from the profile or the profile may be reset upon receipt of a signal from the television network.

Optionally, the apparatus of FIG. 1 may be operative to display a viewer preference profile on the display apparatus 100 or otherwise and to allow the viewer to edit or otherwise modify the viewer preference profile, typically using user interface methods well known in the art. In this case, the viewer is preferably enabled to add, delete, or modify any information in the viewer's viewer preference profile, it being appreciated that the apparatus of FIG. 1 is preferably operative to provide an appropriate questionnaire or other assisted data input method, as is well known in the art, in order to assist the viewer in adding, deleting, or modifying information. Particularly, the viewer is preferably enabled to provide information on programs or types of programs which the viewer prefers to view or prefers not to view.

Further, at col. 13, lines 24-57, Maissel discloses as follows:

Such rules, as is well known in the art, may comprise conditions and results to be carried out if the conditions are true. For example, such a rule might state that if the user preference level for news is greater than a given threshold and if a news program is scheduled within the next 30 minutes, a news alert should be presented on the screen. For the sake of simplicity in description, the case of a simple data structure will generally be described below, it being appreciated that other methods, such as, for example, a rule-based method, may also be used.

The intelligent agent 130 is also operative to customize the program schedule information received from the receiving unit 120 in accordance with one or more viewer preference profiles belonging to one or more viewers and to output a program guide comprising the customized program schedule information to the display apparatus 150 for display. It is appreciated that, in a case where more than one viewer preference profile is used, the plurality of viewer preference profiles may be combined by any appropriate method, including simply combining the profiles, giving complete preference to one profile over another profile, giving partial preference to one profile over another profile, or by any other appropriate combining method.

The term "customize" in its various forms, as used throughout the present specification and claims with reference to program schedule information to be comprised in a program guide, is used generally to refer to any kind of customization including, for example, one or more of the following: changing the order in which programs appear in the program guide; changing the order in which channels appear in the program guide...

As can be seen from the above disclosure, Maissel discloses a viewer profile that can collect preference data based on, for example, the viewer's viewing history, or the viewer's input information identifying programs or types of programs which the viewer prefers. The program guide's order may be changed based on this profile.

In contrast, the invention of claim 1 requires a data output apparatus, comprising a preference score vote receiving unit receiving a vote of preference score of output data representing a degree of preference; a preference score counting unit counting the vote of preference score received by said preference score vote receiving unit; an output unit outputting data; and **a switch destination data determining unit determining a switch destination of data being output by said output unit, based on a result of counting by said preference score counting unit, wherein said switch destination data determining unit determines probability of data to be said switch destination such that data of high preference score has high probability, based on the result of counting of the preference score by said preference score counting unit.**

As can be seen from claim 1, the switch destination data determining unit determines a switch destination of data being output by said output unit, based on a result of counting by said preference score counting unit. However Maissel merely discloses changing the order of the program guide. Applicant respectfully submits that the teachings of Maissel are insufficient to teach or suggest determining a switch destination of data being output by the output unit. For at least this reason, the outstanding rejection should be withdrawn.

Further, claim 1 requires the switch destination data determining unit determines probability of data to be said switch destination such that data of high preference score has high probability, based on the result of counting of the preference score by said preference score

counting unit. Maissel merely discloses changing the order of the program guide. Maissel fails to disclose determining the probability of data to be the switch destination of data being output.

For at least this reason, Applicant respectfully submits that claim 1 is not anticipated by Maissel. It is respectfully requested that the outstanding rejection be withdrawn.

It is respectfully submitted that claims 2, 8-13, 15 and 26-28 are allowable for the reasons set forth above with regard to claim 1 at least based on their dependency on claim 1. It is further respectfully submitted that claims 3, 5-7, 16 and 20-25 similarly recite at least one of the elements discussed above with regard to claim 1 and thus these claims, together with claims dependent thereon, are allowable for the reasons set forth above with regard to claim 1.

Claim Rejections – 35 U.S.C. §103

In support of the Examiner's rejection of claims 15-19 and 21-25, the Examiner relies on the teachings of Maissel, Blahut and/or Itakura to support the assertion of obviousness. However, Blahut and Itakura fail to cure the deficiencies of the teachings of Maissel as noted above. Thus, as none of the references, either alone or in combination, teach or suggest all of the claim elements, assuming these references are properly combinable, which Applicant does not admit, it is respectfully requested that the outstanding rejections be withdrawn.

Conclusion

In view of the above amendment, Applicant believes the pending application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Catherine M. Voisinet Reg. No. 52,327 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

Application No. 10/527,423
Amendment dated July 9, 2009
Reply to Office Action of April 15, 2009

Docket No.: 0033-0989PUS1

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

Dated: July 9, 2009

Respectfully submitted,

By 

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